IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 31 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

VALIULLA BROTHERS

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Appearance:

MR BB NAYAK FOR MR MANISH R BHATT for Applicant.

MR SB VAKIL for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 12/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income Tax Appellate Tribunal, Ahmedabad Bench "B" has referred the following question at the instance of the revenue, for the opinion of this Court:-

"Whether, the assessee was entitled to weighted deduction u/s. 35B in respect of
(i) Shipping charges Rs.8799/-
(ii)Rly.Freight & Octroi Rs.9100/-
(iii)Ocean Freight & Ins. Rs.59235/-."

2 We have heard Mr.B.B.Nayak, learned Counsel for the revenue and Mr.S.B.Vakil for the assessee.

3 It is common ground between the parties that the question referred to the Court is concluded in favour of the revenue by the decision of this Court dated 25/7/1996 in Income Tax Reference No.101 of 1986 rendered between the same parties. For the reasons stated in the said decision we hold that the Tribunal was not justified in upholding the assessee's claim for weighted deduction u/s.35B of the I.T.Act,1961, in respect to Shipping charges of Rs.8,799/-, Railway Freight & Octroi of Rs.9,100/and Rs.59,235/-.

4 The question referred to us is therefore answered in the negative i.e. in favour of the revenue and against the assessee.

5 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah,J) (D.A.Mehta, J)

m.m.bhatt